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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

10 POM WONDERFUL LLC, a Delaware
11 limited liability company,

12 Plaintiff,

13 vs.

14 ROBERT G. HUBBARD d/b/a PUR
15 BEVERAGES, PORTLAND
16 BOTTLING COMPANY an Oregonian
company, and DOES 1 through 10,
inclusive,

17 Defendants.
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Case No. CV13-06917-MMM CWx

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION AS
AGAINST DEFENDANT ROBERT
G. HUBBARD D/B/A PUR
BEVERAGES**

1 On _____, Plaintiff POM Wonderful LLC's ("POM") Motion for
2 Preliminary Injunction ("Motion") was heard by the Honorable Margaret M. Morrow.
3 The Court, having fully considered the Motion submitted by Plaintiff, as well as any
4 oppositions, documents and declarations, if any, in support of the opposition papers
5 and reply brief, and having heard the oral argument and testimony presented at any
6 hearing before this Court, if any,

7 THE COURT FINDS THAT:

8 (1) Plaintiff has made a clear showing that it is likely to succeed on the merits
9 at trial in this action,

10 (2) Plaintiff has shown that it is suffering, and will continue to suffer,
11 immediate and irreparable harm if the requested relief is not granted, and

12 (3) The balance of the hardships weighs heavily in favor of Plaintiff on the
13 present application for a preliminary injunction.

14 IT IS HEREBY ORDERED THAT a Preliminary Injunction shall issue as
15 follows:

16 Defendant Robert G. Hubbard d/b/a PUR Beverages ("Defendant"), is HEREBY
17 ORDERED TO:

18 a. immediately cease in any infringing activity including advertising,
19 promoting, marketing, franchising, distributing, selling, and offering for sale any goods
20 or services in connection with the infringing product at issue in this case or any product
21 or mark similar to POM Wonderful's trademarks in any media, whether in person, in
22 print or by electronic or digital means including but not limited to newspapers,
23 magazines, bus shelters, billboards as well as via the Internet, including but not limited
24 to, company websites, promotional websites, social media websites, YouTube or other
25 video-related websites, food reviewing websites, blogs, email, SMS and the like; and

26 b. Defendant will deliver up to POM Wonderful for destruction any
27 and all packaging, advertising and promotional materials in Defendant's possession,
28 custody or control which contain the infringing products, marks, and/or designs, and

1 any and all infringing products in his possession, custody or control which include
2 POM Wonderful's trademarks

3 c. immediately cease from producing, distributing, selling, importing,
4 marketing, promoting or advertising any beverage that uses the name "pom" in the
5 brand name or any other marks that are likely to cause confusion with Plaintiff's POM
6 products;

7 d. all infringing products be recalled, seized, impounded and
8 destroyed.

9 IT IS FURTHER ORDERED THAT:

10 Plaintiff may serve a copy of this Order on any third party that is selling or
11 distributing Defendant's energy drink product in this District. The Order shall be
12 accompanied by a request to cease sales of the infringing products. If such third
13 parties do not cease selling or distributing Defendant's energy drink product within
14 fourteen (14) days notice of the Court's Order, Plaintiff may apply to this Court for a
15 seizure order directed to those third parties.

16 IT IS FURTHER ORDERED THAT:

17 Within fourteen (14) days after entry of this Order of Preliminary Injunction,
18 Defendant shall file with the Court and serve upon Plaintiff's counsel a signed affidavit
19 setting forth the manner and form in which Defendant has complied with the
20 Preliminary Injunction.

21 IT IS FURTHER ORDERED THAT:

22 The Plaintiff shall post a bond in the sum of \$ _____ as security for the
23 issuance of this Preliminary Injunction.

24 DATED: _____
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27 _____
28 Margaret M. Morrow
Judge of the District Court